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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/716,848	11/17/2000	Thomas J. Perkowski	100-058USA000	9618

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EXAMINER

CARLSON, JEFFREY D

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 03/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/716,848

Applicant(s)

PERKOWSKI, THOMAS J.

Examiner

Jeffrey D. Carlson

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MW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 5-3-01, 2-9-02.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 367-382 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 367-382 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This action is responsive to the paper(s) filed 5-3-01, 2-9-02.

#### ***Specification***

The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01.

Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 367-382 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- The claims include several instances of "i.e.", "e.g." and other (parenthetical notations) that make it unclear whether these are positive limitations or not. Applicant should more clearly and positively set these forth as claim limitations if they are indeed intended to define the scope of the claims. Parenthetical abbreviations that appear after the phrase's is defined in the claims would be acceptable, such as "informational resource files (IRFs)" and subsequent appearances of "(IRFs)."

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- Claims 369-375, 379-382, it is unclear what CPI and CPIR-enabling is.  
Applicant should include at least an initial definition of such abbreviation in the claims.
- Claim 372 line 4, there is no antecedent basis for the specified web server.
- Claim 379 line 5, there is no antecedent basis for the "short" ads.
- Claim 380 line 4, there is no antecedent basis for the specified website.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 367-382 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stern (US6591247) in view of Stallings et al (Business Data Communications).

Regarding claims 367, 375, 378, Stern teaches systems and methods for providing networked, in-store kiosks that can be used to deliver product information and advertisements. A server (NMC 12) receives various types of content (ads, information, etc) and makes the content available to various stores via the centralized NOC server 20 [fig 1]. Each store has a centralized server and plural kiosk sites 30 including a video screen and light pen. The servers are connected by way of IP protocol and/or the Internet [4:46-65]. A consumer can scan the UPC of a product at the kiosk and receive information and advertising about the product [6:46-50]. The content for the ads and

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other delivered information comes from privately available sources. Stern does not include the ability for a vendor or manufacturer to access the system and upload information from his local database to the centralized data storage of Stern. Stallings et al however teaches the well known EDI techniques whereby business-to-business communications are transmitted according to pre-defined and agreed-upon formats. It would have been obvious to one of ordinary skill at the time of the invention for vendors and manufacturers of the products available in the stores of Stern to have provided the necessary advertising, promotion and other information resources via an EDI conduit so that the vendors/manufacturers can control the quality and dissemination of their product in an automated fashion. The ability to query the system to retrieve product information based on a submitted UPC code suggests that the storage database uses such manufacture-defined UPC code as an index as is well known. Either the store server or the system NOC server can be taken to be a centralized database storage of ads and product information.

Regarding claim 368, consumers can be taken to be purchasing agents.

Regarding claim 369, it would have been obvious to one of ordinary skill at the time of the invention to have provide the necessary network connections between kiosks and servers through any well known means including wireless. Such would enable the kiosk to be moved throughout the store more easily during remodeling.

Regarding claim 370, Stern teaches IP and Internet protocols and it would have been obvious to one of ordinary skill at the time of the invention to have used any type of well known protocols to deliver the information including http web servers. Such

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would enable the kiosks to be easily deployed with an available and free web browser as the client application, requiring minimal customization.

Regarding claims 372, Stern teaches that the kiosks show information on products only available in the store.

Regarding claims 371, 373, 374, 381, 382, such features are described by the dependant claims, but are not positively set forth in parent claims. These are taken to be optional features, not required to be taught by the prior art.

Regarding claim 376, a user query for a specific product UPC is taken to return filtered/queried results specific to that UPS only.

Regarding claim 377, the UPC code is manufacturer/vendor specific. The manufacturer is given rights to sell such products in the store.

Regarding claims 379, 380, Stern teaches banner or attract advertisements that are shown at the kiosks between user requests [6:42-44, 20:30-35]. It would have been obvious to one of ordinary skill at the time of the invention to have sold such advertising slots to the manufacturers/vendors associated with the system so that advertising revenue can be generated during idle times.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey D. Carlson whose telephone number is 703-308-3402. The examiner can normally be reached on Mon-Fri 8:30-6p, (off on alternate Fridays).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on 703-305-8469. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jeffrey D. Carlson  
Primary Examiner  
Art Unit 3622

jdc